# Structural Violence AC

I affirm. I value morality because ought denotes a moral obligation. In order for morality to be act functional, it must be able to recognize subjective differences between individuals. Absent an examination of individual differences, ethics becomes a tool to dominate and is useless as an impartial guide to action.

Young:

Young, Iris Marion. *Justice and the Politics of Difference*. Princeton, NJ: Princeton UP, 1990. Print. CM

Some feminist and postmodern writers have suggested that a denial of difference structures Western reason, where difference means particularity, the heterogeneity of the body and affectivity, or the inexhaustibility of linguistic and social relations without a unitary, undifferentiated origin. This book seeks to show how such a **denial of difference contributes to social group oppression**, and to argue for a politics that recognizes rather than represses difference. Thus Chapter 4 argues that the ideal of impartiality, a keystone of most modern moral theories and theories of justice, denies difference. The ideal of impartiality suggests that all moral situations should be treated according to the same rules. By claiming to provide a standpoint, which all subjects can adopt, it denies the difference between subjects. By positing a unified and universal moral point of view, it generates a dichotomy between reason and feeling. Usually expressed in counterfactuals, the ideal of impartiality expresses an impossibility. It serves at least two ideological functions, moreover. **First,** **claims to impartiality feed cultural imperialism by allowing the particular experience and perspective of privileged groups to parade as universal.** **Second**, **the conviction that bureaucrats and experts can exercise their decision making power in an impartial manner legitimates authoritarian hierarchy**. Impartiality, I also suggest in Chapter 4, has its political counterpart in the ideal of the civic public. Critical theory and participatory democratic- theory share with the liberal theory they challenge a tendency to suppress difference by conceiving the polity as universal and unified, **This universalist ideal** of the civic public has **operated to** effectively **exclude from citizenship persons identified with the body and feeling—women**, Jews, Blacks, American Indians, and so on**.** A conception of justice, which challenges institutionalized domination and oppression, should offer a vision of a heterogeneous public that acknowledges and affirms group differences.

This requires a reconciliation between different groups values. Embracing pluralism is key to acknowledging the social oppression of heterogeneous groups.

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Second, **because it assures a voice for the oppressed** as well as the privileged, **group representation better assures that all needs** and interests in the public **will be recognized** in democratic deliberations. **The privileged usually are not inclined to protect or advance the interests of the oppressed**, partly because their social position prevents them from understanding those interests, and partly because to some degree their privilege depends on the continued oppression of others. While **different groups** may share many needs, moreover, their difference usually **entails some special needs**, **which the individual groups themselves can best express.** If we consider just democratic decision-making as a politics of need interpretation, as I have already suggested, then **democratic institutions should facilitate the public expression of the needs of those who tend to be socially marginalized or silenced by cultural imperialism. Group representation in the public facilitates such expression.**

Multiple impacts:

1. Controls the internal link to any ethical system- ethics cannot operate if they exclude voices because they would be incomplete and arbitrary. Arbitrariness is a side constraint on ethical theories, because if they could exclude voices they would never be able to be a guide to action because they wouldn’t be able to prescribe consistent rules.
2. Excluding voices reinforces hierarchies which inherently privileges the have’s in society over the have not’s- that inhibits meaningful decision-making because it rests on a flawed assumptions that have been normalized. That means including voices in the political system is the only way to create ethical rules.

Ensuring that voices are included the political system requires questioning the assumptions behind the stratification of individuals. Winters and Leighton 99:

Winter, D. D., & Leighton, D. C. (2001). Structural violence. In D. J. Christie, R. V. Wagner, & D. D. Winter (Eds.), Peace, conflict, and violence: Peace psychology in the 21st century. New York: Prentice-Hall. CM

Finally, to recognize the operation of structural violence forces us to ask questions about how and why we tolerate it, questions which often have painful answers for the privileged elite who unconsciously support it. A final question of this section is how and why we allow ourselves to be so oblivious to structural violence. Susan Opotow offers an intriguing set of answers, in her article Social Injustice. She argues that our normal **perceptual/cognitive processes divide people into in-groups and out-groups. Those outside our group lie outside our scope of justice. Injustice that would be instantaneously confronted if it occurred to someone we love** or know i**s barely noticed if it occurs to** strangers or **those who are invisible or irrelevant.** We do not seem to be able to open our minds and our hearts to everyone, so **we draw conceptual lines between those who are in and out of our moral circle.** **Those who fall outside are morally excluded, and become either invisible, or demeaned in some way so that we do not have to acknowledge the injustice they suffer**. **Moral exclusion is** a human failing, but Opotow argues convincingly that it is **an outcome of** everyday **social cognition**. To reduce its nefarious effects, **we must** be vigilant in noticing and **listen**ing **to oppressed**, invisible, **outsiders**. **Inclusionary thinking can be fostered by** relationships, **communication**, and appreciation of diversity.

Thus the standard is resisting structural violence.

Material solutions outweigh abstract solutions because ideal theories fail to account for personal identity and marginalized groups.

Dr. Tommy J. Curry. *The Cost of a Thing: A Kingian Reformulation of a Living Wage Argument in the 21st Century*. 2014

Despite the pronouncement of **debate as an** activity and **intellectual exercise** pointing to the real world consequences of dialogue, thinking, and (personal) politics when addressing issues of racism, sexism, economic disparity, global conflicts, and death, many of the discussions concerning these ongoing **challenges** to humanity are fixed to **a paradigm which sees the adjudication of material disparities** and sociological realities **as the conquest of** one **ideal theory** over the other. In “Ideal Theory as Ideology,” Charles Mills outlines the problem contemporary theoretical-performance styles in policy debate and value-weighing in Lincoln-Douglass are confronted with in their attempts to get at the concrete problems in our societies. At the outset, Mills concedes that “ideal theory applies to moral theory as a whole (at least to normative ethics as against metaethics); [s]ince ethics deals by definition with normative/prescriptive/evaluative issues, [it is set] against factual/descriptive issues.”At the most general level, **the** conceptual **chasm between** what emerges as ***actual* problems** in the world (e.g.: racism, sexism, poverty, disease, etc.) **and how we frame** such **problems *theoretically***—the assumptions and shared ideologies we depend upon for our problems to be heard and accepted as a worthy “problem” by an audience—is the most obvious call for an anti-ethical paradigm, since such a paradigm **insists on the actual as the basis of** what can be considered **normative**ly. Mills, however, describes this chasm as a problem of an ideal-as-descriptive model which argues that for any actual-empirical-observable social phenomenon (P), an ideal of (P) is necessarily a representation of that phenomenon. In the idealization of a social phenomenon (P), one “necessarily has to abstract away from certain features” of (P) that is observed before **abstraction** occurs. This gap between what is *actual*(in the world), and what is represented by theories and politics of debaters proposed in rounds **threatens any real discussions about the concrete nature of oppression** and the racist economic structures **which necessitate tangible policies and reorienting changes in our value orientations**. As Mills states: “What distinguishes **ideal theory is the** reliance on idealization to the exclusion, or at least **marginalization, of the actual**,” so what we are seeking to resolve on the basis of “thought” is in fact incomplete, incorrect, or ultimately irrelevant to the actual problems which our “theories” seek to address. Our attempts to situate social disparity cannot simply appeal to the ontologization of social phenomenon—meaning we cannot suggest that the various complexities of social problems (which are constantly emerging and undisclosed beyond the effects we observe) are totalizable by any one set of theories within an ideological frame be it our most cherished notions of Afro-pessimism, feminism, Marxism, or the like. At best, theoretical endorsements make us aware of sets of actions to address ever developing problems in our empirical world, but even this awareness does not command us to *only* do X, but rather do X and the other ideas which compliment the material conditions addressed by the action X. As a whole, debate (policy and LD) neglects the need to do X in order to remedy our cast-away-ness among our ideological tendencies and politics. How then do we pull ourselves from this seeming ir-recoverability of thought in general and in our endorsement of socially actualizable values like that of the living wage? It is my position that Dr. Martin Luther King Jr.’s thinking about the need for a living wage was a unique, and remains an underappreciated, resource in our attempts to impose value reorientation be it through critique or normative gestures) upon the actual world. In other words, King aims to reformulate the values which deny the legitimacy of the living wage, and those values predicated on the flawed views of the worker, Blacks, and the colonized (dignity, justice, fairness, rights, etc.) used to currently justify the living wages in under our contemporary moral parameters.

The criminal justice system has a long history of bias against queer people of color

Leavitt:

Adrien Leavitt. Queering Jury Nullification: Using Jury Nullification as a Tool to Fight Against the Criminalization of Queer and Transgender People. Seattle Journal for Social Justice: Vol. 10: Iss. 2, Article 2. April 2012. <http://digitalcommons.law.seattleu.edu/cgi/viewcontent.cgi?article=1615&context=sjsj>. CM

The experiences of these seven women are not unusual or isolated incidents for queer people, particularly queer people of color. **Queer and transgender people**,19 especially ones **of color**, **experience** the “continu[ed] **institutionalization of severe**, persistent, and seemingly intractable forms of **violence and inequality**” **within the criminal legal system**.20 Furthermore, **queer lives are criminalized through social constructions of categories of crime**, which dictate that heteronormative sexual and gender expressions are acceptable, while **deviant sexual and gender identities are presumptively criminal**.21 As a result, **queer people are disproportionately** entangled in the criminal legal system, including being disproportionately **imprisoned**.22 **The criminalization of queer identities is particularly harmful for black queers**, **who experience the intersection of the criminalization of queer people and** the long history of criminalization of **blacks**, which originated during the period of slavery and evolved through the Black Codes, convict lease system, Jim Crow laws, **and the** rise of the **prison-industrial complex**.23

Laws and policing profile queer people of color unfairly

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Examples of criminalization of queer identities are abundant. **Queer people**∂ **are profiled by the police and arrested at an alarming rate** under the pretext of∂ enforcing laws such as quality of life, lewd conduct, public indecency, and∂ loitering with the intent to solicit.24 **Despite the** United States **Supreme Court’**s∂ 2003 **decision** in Lawrence v. Texas,∂ 25 in **which** it **struck down sodomy laws**∂ **and held that sexual intimacy** at home **between consenting adults is**∂ constitutionally **protected**, **queer people continue to be arrested and prosecuted**∂ **under** archaic “**Crimes Against Nature” laws**.26 **Such laws** outlaw engaging in∂ oral or anal (but not vaginal) sex for a fee and, upon conviction under these∂ laws, **require registration as a sex offender**.27∂ **Queer people are** also often **victimized by the police even when** they are∂ **calling for help**, particularly **in instances involving same-sex domestic violence**∂ where **police assume “mutual combat”** is at play rather than domestic violence∂ **or determine the perpetrator based on heteronormative** presumptions about **gender roles**.28 Once they become criminal defendants, queer people are plagued by archetypes that define them as sexually deviant and sadistically violent.29 **In prison, queer people experience** extremely **high rates of** verbal, physical, and sexual **abuse**; indeed, sexual orientation is the single greatest determinant of sexual abuse in prisons.30 While these issues are deserving of attention, **mainstream gay activism**31 **is focused on** obtaining legal **rights that benefit the most privileged members** **of the LGBT community**, such as access to marriage and inclusion in hate crime legislation. **This leaves the** most vulnerable members of the **queer community**, particularly ones of color, **with** urgent and life-threatening **problems.**32

Thus I advocate for selective jury nullification by queer people of color and their allies based on an adaptation of the proposal of race-based jury nullification by Paul Butler.

Leavitt explains Butler’s advocacy:

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In response to the disproportionate impact of the criminal legal system on black people and their communities, Paul **Butler** published a groundbreaking∂ article in which he **called for black jurors to use a system of strategic jury** **nullification** in order **to reduce the number of black people sent to prison**.134∂ Through his suggested strategy, Butler hoped to begin to ameliorate the∂ immeasurable damage inflicted by the criminal legal system on the black∂ community.135 To achieve strategic black jury nullification, **Butler offered** **a three-part proposal for black jurors**.136 **First, in cases of** inherently **wrong and violent crimes, like murder, rape, and assault, black jurors should “consider the** **case strictly on the evidence presented, and, if they have no reasonable doubt that the defendant is guilty, they should convict.”**137 Next, **in cases stemming from wrong but nonviolent acts**, such as theft or perjury, black jurors should∂ consider nullifying, although **there should be no presumption in favor of (nullification) it**.138∂ Finally, **with offenses that are wrong simply because they are prohibited,** including victimless crimes **such as drug possession, there should be a** **presumption in favor of nullification by black jurors**; in other words, black∂ jurors should nullify in cases involving malum prohibitum139 crimes.140∂ Comparing black jury nullification to forms of civil disobedience used by the∂ black community during the civil rights struggle of the 1960s, Butler refers to∂ black jurors willing to follow his call for black jury nullification as “Martin Luther King jurors.”141 Indeed, as a form of civil disobedience, the implementation of Butler’s strategy would result in fewer black people in prison, reducing the harshest consequences of the racialized criminalization of crime—the severely disproportionate imprisonment of blacks.142 **By reducing the number of black people in prison, black communities could become stronger and safer**; in fact, **in states where prison populations have decreased, crime has subsequently fallen**.143 Moreover, Butler asserts that by **nullifying only in cases involving nonviolent, victimless, yet criminalized behavior, public safety benefits because violent, dangerous lawbreakers are still sent to prison**.144 Ultimately, **by implementing** Butler’s proposal for **strategic nullification**, black **jurors send an important message:** that **they demand change in the criminal legal system**.145

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**Queer people and their allies should** adopt and **expand Butler’s proposal as a tool to subvert the criminal** punishment **system** in order **to fight** against **structural racism**, protest the **policing of deviant sexual and gender identities**, **and reduce** the **violence** perpetrated **against queer people** by the criminal punishment system. Through **this** updated **call for queer jury nullification**, which **is focused on** the transformative goal of **prison abolition**, **queer jurors and their allies will** begin to **ameliorate the harmful effects of the criminalization of non-heteronormative sexual and gender identities and** simultaneously **protec**t members of **their community from the violence of prisons**.4

There is legal precedence- jury nullification was used by the queer community and allies to resist discriminatory sodomy laws.

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In another example, before the Supreme Court’s decision in Lawrence,∂ **numerous defendants** who had been **charged under sodomy laws were**∂ **acquitted**, likely **as a result of jury nullification**. **In September 1993, a DC jury**∂ **acquitted two gay men charged with oral sodomy despite undeniable evidence**∂ to the contrary.97 Similarly, **in August 1996, a jury acquitted a female Air**∂ **Force major charged with** sodomy and conduct unbecoming of an officer based∂ on the accusation that the major had **a two-year-long lesbian relationship with**∂ **a civilian.**98 **If convicted, the major faced eight years in military prison and the**∂ **complete loss of her pension.**99 Numerous **acquittals of queer defendants**∂ **charged under sodomy laws continued until the Supreme Court** eventually∂ **struck down these laws as unconstitutional in 2003**.

And, the reasons jury nullification is justified within the community of people of color extend to the queer community.

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**Queer people**, **especially** ones **of color**, **experience** similar **subordination at**∂ **the hands of the criminal legal system**. Although **the prison system** was erected∂ to continue the control and subordination of blacks after the passage of the∂ Thirteenth Amendment and continues to reflect this racist foundation in its∂ modern form, it **has expanded to incapacitate those who do not fit within**∂ **heteronormative sexualities and gender identities as well**. As a result, **queer**∂ **people are systematically identified by the criminal legal system and subjected**∂ **to high levels of incarceration and violence** within that system. Many of **the**∂ shocking **disparities that make Butler’s proposal** for black jury nullification∂ **persuasive apply** with similar force **to queer people.**